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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,074	03/11/2004	Vincent Joseph Kovarik JR.	7162-0110	5321

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EXAMINER

SHAIFER HARRIMAN, DANT B

ART UNIT

PAPER NUMBER

2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/798,074

Applicant(s)

KOVARIK, VINCENT JOSEPH

Examiner

Dant B. Shaifer - Harriman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/11/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/11/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/11/2004, 3/27/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims(s) 11-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Claim 1, 10, 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims(s) 1, 10, 11 are directed to a method and secure computer system where a request is received in a computer system, the entity (i.e. the user or the system) that made the request has a predetermined access level that is compared to a minimum access level that is established by the first base node; the entity is also checked to see if it completes a temporal access pattern, if the entity does complete a temporal access pattern, and the entity's predetermined access pattern meets the minimum access level of the first base node, then the entity's request is granted.

This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring phenomenon) since it fails to produce a useful, concrete and tangible result.

Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data. More specifically, the claimed subject matter provides for the granting of an entity's request if and only if, the entity doesn't complete a temporal access pattern, and the entity's predetermined access level meets the minimum access level of the first base node. This conditional statement yields only a tangible result if access is granted, but otherwise access isn't granted, this is what makes for a non-tangible result. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim(s) 1-9 & 10-19 are rejected under 35 U.S.C. 102(e) as being taught by Cotner (PGPub # US 2004/0044655 A1) hereinafter Cotner.

Cotner teaches:

Claim #1

A method for secure access to a computer system, comprising the steps of:

- receiving in said computer system a request from an entity with a predetermined access level for access to a first base node representing at least one of an information type and a computer system function (Paragraph: 0085), the examiner notes that the user or entity requests an update to the data in the database, this is equivalent to a computer system receiving a request and a first base node is of either a information type(i.e. data in data row) and a computer system function (i.e. the actual computer function that updates the row data in the row).

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- determining if said access request completes a prohibited temporal access pattern for said entity(Paragraph: 0034), the examiner notes that by the fact that a user can or administrator can update the security label from Secret to Top Secret over a period of time based on the type of work or clearance that is needed to work on the project, it is inherent that this is a temporal access pattern.
- and comparing a minimum access level established for said first base node to said predetermined access level(Paragraph: 0039), the examiner notes that the user security level must be greater or equal to the row's security level, this is equivalent to the first base node minimum access level doesn't exceed the predetermined access level of the user or entity.
- and granting said access request only if it does not complete a prohibited temporal access pattern for said entity(Paragraph: 0034), the examiner notes that by the fact that a user can or administrator can update the security label from Secret to Top Secret over a period of time based on the type of work or clearance that is needed to work on the project, it is inherent that this is a temporal access pattern.
- and said minimum access level for said first base node does not exceed said predetermined access level(Paragraph: 0039), the examiner notes that the user security level must be greater or equal to the row's security level, this is equivalent to the first base node minimum access level doesn't exceed the predetermined access level of the user or entity.

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The examiner further notes that claims 1 and 10 are duplicates and that claims 10 is the implementation of claim 1 on the method, which when implement produces the same result.

Claim #2

The method according to claim 1, further comprising the step of denying said request if said access request completes a prohibited temporal access pattern for said entity, (Paragraph: 0038 & 0039, the examiner notes that by the fact that a user or administrator can update the security label from Secret to Top Secret over a period of time based on the type of work or access clearance that is needed to work on the project, it is inherent that this is a completed temporal access pattern.

The examiner further notes that claims 2 and 12 are duplicates and that claims 12 is the implementation of claim 2 on the method, which when implement produces the same result.

Claim # 3

The method according to claim 1, further comprising the step of denying said request if said minimum access level for said first base node exceeds said predetermined access level for said entity, (Paragraph: 0039, the examiner notes that the users security label is greater than or equal to the row's security label is the same as the entity or user meeting the minimum access level of the first base node.

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The examiner further notes that claims 3 and 13 are duplicates and that claims 13 is the implementation of claim 3 on the method, which when implement produces the same result.

Claim #4

The method according to claim 1, further comprising the steps of: logically organizing said computer system in the form of a tree hierarchy having a plurality of leaf nodes and higher-level nodes; defining a plurality of said base nodes as comprising respectively a plurality of leaf nodes of said tree hierarchy; and defining said higher-level nodes as aggregations of said base nodes, (Paragraphs: 0057, the examiner notes that the keywords "leaf node and higher level security level node" describes a tree hierarchy, which contains both higher level nodes and leaf nodes per se.

The examiner further notes that claims 4 and 14 are duplicates and that claims 14 is the implementation of claim 4 on the method, which when implement produces the same result.

Claim #5

The method according to claim 4 further comprising the step of identifying within said hierarchy any higher-level nodes that are aggregations comprising said first base node, (Paragraph: 0057 & Figure 4, the examiner notes that the rainbow (higher leaf node) is composed of a multitude of colors including sunset, which is the first base node in this case.

The examiner further notes that claims 5 and 15 are duplicates and that claims 15 is the implementation of claim 5 on the method, which when implement produces the same result.

Claim #6

The method according to claim 5, further comprising the step of identifying within said hierarchy any nodes that comprise children of any generation of said high-level nodes that are aggregations comprising said first base node, (Paragraph: 0057 & 0058 & Figure 4, the examiner notes that the rainbow (higher leaf node) is composed of a multitude of colors including sunset, which is the first base node in this case.

The examiner further notes that claims 6 and 16 are duplicates and that claims 16 is the implementation of claim 6 on the method, which when implement produces the same result.

Claim #7

The method according to claim 6, further comprising the step of updating a minimum required entity access level for any base nodes that comprise children of any generation of said higher-level nodes that are aggregations comprising said first base node, (Paragraph: 0058 & Figure 4 & 0085 & Figure 8A, the examiner notes that if the data is changed or updated in the row, for example the column headings are changed from secret to top secret, then the corresponding users (entity) security level is updated as well (i.e. sunset(first base node) to rainbow), then the user that initiated the update

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will be able to access the top secret data at a rainbow security level or at a higher color access control level.

The examiner further notes that claims 7 and 17 are duplicates and that claims 17 is the implementation of claim 7 on the method, which when implement produces the same result.

Claim #8

The method according to claim 7, wherein said updating step further comprises the steps of: comparing said entity's predetermined access level against the minimum required access level of said higher-level nodes that are aggregations comprising said first base node; and updating a minimum required access level of any said base node that is also a member of any aggregation comprising said first base node if a minimum required access level for said higher-level node comprising said aggregation has a required access level that is higher than said entity's predetermined access level, (Paragraph: 0058 & Figure 4 & 0085 & Figure 8A, the examiner notes that if the data is changed or updated in the row, for example the column headings are changed from secret to top secret, then the corresponding users (entity) security level is updated as well (i.e. sunset(first base node) to rainbow), then the user that initiated the update will be able to access the top secret data at a rainbow security level or at a higher color access control level.

The examiner further notes that claims 8 and 18 are duplicates and that claims 18 is the implementation of claim 8 on the method, which when implement produces the same result.

Claim #9

The method according to claim 1, further comprising the steps of: comparing said entity's predetermined access level against the minimum required access level of at least one higher-level node that is an aggregation of base nodes including said first base node; and updating a minimum required access level of any said base node that is also a member of any aggregation comprising said first base node if a minimum required access level for said higher-level node comprising said aggregation has a required access level that is higher than said entity's predetermined access level, (Paragraph: 0058 & Figure 4 & 0085 & Figure 8A, the examiner notes that if the data is changed or updated in the row, for example the column headings are changed from secret to top secret, then the corresponding users(entity) security level is updated as well (i.e. sunset(first base node) to rainbow), then the user that initiated the update will be able to access the top secret data at a rainbow security level or at a higher color access control level.

The examiner further notes that claims 9 and 19 are duplicates and that claims 19 is the implementation of claim 9 on the method, which when implement produces the same result.

Claim #11

A secure computer system comprising: a plurality of logical base nodes representing at least one of an information type and a computer system function; a

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plurality of higher-level nodes arranged together with said base nodes in the form of a tree hierarchy; a computer system interface capable of receiving a request from an entity with a predetermined access level for access to a first base node; a temporal access table; processing means programmed for comparing said access request to said temporal access table to determine if said access request completes a prohibited temporal access pattern for said entity, and for comparing a minimum access level established for said first base node to said predetermined access level and wherein said processing means grants said access requests only if it does not complete a prohibited temporal access pattern for said entity, and said minimum access level for said first base node does not exceed said predetermined access level, (Paragraphs: 0030 & 0034, the examiner notes that a security table which relates a user identification and security table, change with time based on the project type and sensitivity level associated with the project, therefore it is inherent that a security table in fact is a temporal access table. The examiner further notes that to one of ordinary skill in the art, that a database is constructed in a software language and can only be implemented on a computer or computer system, thus it is inherent that a computer system and software will employ an interface for interaction with the user or administrator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dant B. Shaifer - Harriman whose telephone number is 571-272-7910. The examiner can normally be reached on Monday - Thursday: 8:00am - 5:30pm Alt.Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Del Sole can be reached on 571-272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



KIMBERLY D. NGUYEN
PRIMARY EXAMINER